

SECRET

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Thursday - 9 April 1970

25X1 1. [] In response to my request yesterday, Brian Hessler, in the office of Representative William Brock (R., Tenn.), reported that the Consumer Affairs Subcommittee of the House Banking and Currency Committee would probably be reporting out the House version of the Fair Credit Report Act (H.R. 16340) without a full exemption for Federal agencies, but that in the Subcommittee's view section 34(b) could be used by Federal agencies to obtain other than identifying information.

25X1 2. [] Hand carried to Miss Berniece Kalinowski for Mr. Frank Slatinshek, Assistant Chief Counsel, House Armed Services Committee, a copy of the Director's prepared statement of 13 March on the use of [] in Laos. Mr. Slatinshek requested the Director's statement as a follow-on to last week's briefing provided Mr. Slatinshek and Mr. Blandford by George Carver on Cambodia, Laos, Thailand, and Viet Nam.

25X1 3. [] The transcripts of DCI testimony of 2 and 13 March were forwarded to the Senate Foreign Relations Committee and returned at the close of business. Present review of the transcripts has been completed. They will be retained for safekeeping, subject to call by the Committee.

25X1 4. [] I advised Larry McHugh, on the staff of the Joint Economic Committee, that our updated contributions to the Soviet studies would start coming over early next week. I also asked McHugh if they desired a response to Chairman Boggs letter of 25 March 1970 asking that we do this. McHugh said a written response was not necessary, particularly in view of my call.

SECRET

FAIR CREDIT REPORTING

House Banking and Currency Subcommittee on Consumer Affairs began hearings March 17 and continued March 19, 20, 23 and 24 and April 7 and 8 on the Fair Credit Reporting Act (HR 16340) and two similar bills, HR 6071 and S 823, a Senate-passed bill.

The bills would allow persons to look into and to challenge or correct their credit dossiers on file with private credit bureaus.

References. For Senate action and hearings, see 1969 Weekly Report p. 13, 873, 1160, 2136 and 2257.

Background. American consumers in 1969 owed \$116 billion in outstanding credit. Because of the trend to credit buying, a vast organization of credit bureaus had developed to supply credit information. More than 2,000 bureaus maintained files on more than 110 million individuals and in 1967 issued more than 97 million credit reports to 400,000 creditors in 36,000 communities. These agencies had no public supervision. With the trend toward use of computers, there was fear that a gigantic national data bank including extremely personal information on nearly all consumers would be created with no public safeguards to protect the American buyer.

The Senate in November 1969 passed its version of the Fair Credit Reporting Act (S 823) which allowed consumers to protect themselves against arbitrary, erroneous or malicious credit information.

Testimony March 17:

Cornelius E. Gallagher (D N.J.):

While the individual needs credit, insurance and employment, we cannot allow such necessities to be purchased at the price of privacy. The individual must be able to make sure his credit records are correct. Legal responsibility must fall on those who can damage a man's chance for deserved credit, insurance or employment and credit information must be used solely for the purpose for which it was given.

All information yielded should be subjected to due process of law. There should be no privilege against any future legal action in the giving of credit information because the damage to the individual may often have been done before he knew what erroneous information had been disseminated.

Only identifying information should be given in response to a subpoena. If a Federal agency wants anything else in a credit repository, the individual concerned must be informed and be able to contest the action.

We are past the time when information can be regarded as the sole property of those who manage the system. The individual must be able to restrict unwelcome access to information he has provided for the necessities of modern life.

A great public utility, dealing solely in data on individually identifiable Americans, is looming on the horizon and it is up to the Congress to assure that such a data-rich society does not become privacy-poor.

March 19

Harry C. Jordan, TRW Information Services Inc., and Credit Data Corporation:

The Credit Data Corporation supports S 823. It does not support HR 16340 because it is unduly burdensome and restrictive.

With the use of computers, the storage of information which is old and outdated simply cannot be permitted because of storage costs. It is possible to review all of the data in a computer file within a few hours and remove that which is outdated.

There should not be administrative regulation of credit agencies. Also, agencies should not be held liable for negligence if a mistake appears in an individual's file.

A computerized file will be meaningless to an individual should he be permitted to see it.

Legislation is needed to prohibit non-credit granting Governmental agencies from obtaining information from credit files except in cases involving national security.

March 20

Lawrence Speiser, American Civil Liberties Union (ACLU):

The ACLU believes the individual should have a right to demand and inspect his credit file; should have the right to contest the accuracy of the information, to have errors recorded in the files and reported to prior recipients of the original information and should have the right to place explanatory information in the file.

HR 16340 appears to go the furthest to protect the consumer. But, Government agencies which do not grant credit should not be allowed to obtain even identifying information from private agencies without subpoena.

Arthur R. Miller, University of Michigan:

The Senate bill, S 823, does not offer citizens effective relief from improper credit bureau activities. The House bill HR 16340 cures the inadequacies of the S 823.

Every consumer should be allowed to find out what the credit bureaus know about him, be able to correct any inaccurate or misleading information and find out who has looked in his file.

Retail credit bureaus often engage in surveillance activities and record derogatory information based on off-the-cuff opinions from sources whose reliability is never tested. Thus, a substantial mass of dangerous and often inaccurate material has been gathered and its dissemination probably is causing considerable damage to many individuals. Computerization will allow credit data networks to obtain even more detailed and sensitive information about individuals.

The existing legal structure does not take account of the massive shifts of data technology and the increased danger of information in a computer-based society.

Mr. and Mrs. Paul R. Prietsch, Hale-Prietsch Services, Inc.:

Accurate disclosure to an individual of information in his credit file is more fitting than allowing him to have access to the file. Credit bureaus should have immunity from legal action as a condition for an individual's access to his file. Information should be held for seven years, not three. Notice of arrests or indictments where no convictions resulted should be permissible, along with divorce actions, alimony payments, child support and repossessions.

If HR 16340 is enacted, agencies would be forced to cease filing public information and records and the cost of credit to the consumer would be greatly increased.

March 24

William F. Willier, National Consumer Law Center:

Studies by the Center have shown that many of the consumer problems with credit agencies can be solved cheaply if the agencies put their ingenuity to work. They do not seem to want to be held to the standard of ordinary care to which other business enterprises are held. There is no justification in logic why a consumer reporting agency which is a commercial, profit-making enterprise, should enjoy a conditional privilege.

S 823 offers solutions for a number of problems, but HR 16340 offers solutions to even more and provides realistic civil remedies to the consumer.

Royal E. Jackson, Division of Bankruptcy, United States Courts:

The Division approves in principle HR 16340 but suggests two changes. First, bankruptcies should not be reported longer than seven years from the date of adjudication of the most recent bankruptcy. Secondly, the bill does not deal with credit reporting bureau operated as an integral part of a debt collection agency.

In Committee - 8

April 7

Charles N. Walker, American Life Convention and Life Insurance Association of America:

It is important that insurance underwriters have available all possible information on individuals bearing a risk classification. A mistake in underwriting will benefit one policyholder to the detriment of all others in his class. The Fair Credit Reporting Act, in this respect, should be modified.

April 8

Alfred S. Roberts, credit manager, B. Altman and Co., New York:

Any legislation which seriously interferes with the free flow of both positive and negative information, which unduly increases the cost of that information or which impairs the confidence of credit granters by arbitrarily imposing information gaps does a grave disservice to the consumer whose credit records are unquestionable. The result of restricted credit information is restricted credit granting.

The Senate bill, S 823, is a practical piece of legislation, as opposed to the grave concerns which HR 16340 raises.

Edward Herbert, Robert Morris Associates (National Association of Bank Loan and Credit Officers):

The application of HR 16340 to commercial loan transactions would do the most damage to those business loan applicants who can least afford it—the young, growing privately owned businesses. It is the smaller company who could suffer the most if the banker has insufficient information available to justify the extension of credit to it.

Another possible victim of credit regulations could be the minority businessman. If the flow of information is impeded by fear of its disclosure, the loan applicant will suffer because the lending officer will have an insufficient basis upon which to support a favorable decision.

The definitions in HR 16340 specifically exempt from regulation any credit information obtained for the purpose of establishing eligibility for commercial credit or for any extension of credit in an amount over \$5,000 not secured by real estate or by tangible personal property.

Allen P. Stults, American Bankers Association (ABA):

The ABA believes that both S 823 and HR 16340 present problems. However, S 823 is more effective in achieving the goals of fair credit legislation than HR 16340 which defeats the basic purposes of the bill. The Senate bill provides for a more self-enforcing law.

The banking industry's existence depends on getting accurate and complete credit information. The extent of the credit check and the time and costs involved must be a management decision. This cannot be practicably spelled out in legislation.

Virginia H. Knauer, Special Assistant to the President for Consumer Affairs:

Industry guidelines do not go far enough, and enforcement under a voluntary code is extremely difficult. I support the general objectives of HR 16340 with some exceptions. Punitive damages should be limited to \$100 of civil liability. Two years seems ample time within which consumers can bring suits.

A consumer reporting agency should not be permitted to require an individual to grant immunity from legal action as a condition for obtaining access to his file. And, the opportunity to correct inaccurate or misleading information is essential.

The requirement on creditors to automatically report the disposition of their past due accounts could serve to dry up the sources of credit information for agencies. This could be solved by requiring that information be updated whenever a request for a report is received by the agency. I favor advance notification and written permission from the individual prior to making an investigation.

MASS TRANSIT SUBSIDIES

House Banking and Currency Subcommittee on Housing and Urban Affairs held hearings April 8-9 on two bills (S 3499, S 676) to subsidize the operations and debts of public mass transit systems.

Reference. *Weekly Report* p. 743.

Background. The Committee held hearings in March on a Senate-passed bill (S 3154) providing funds to finance mass transit facilities.

S 3499 would provide \$250 million over three years to public mass transit systems to pay off debts for previously purchased facilities.

S 676 would provide grants for two-thirds of the operating deficits of public or private mass transit companies for up to 15 years.

Testimony April 8

Carlos C. Villarreal, Urban Mass Transportation Administrator, Department of Transportation (DOT), said the Department opposed the bills:

The bills would change the nature of the Federal involvement in assistance to mass transit and would deal with only a small part of the over-all problem.

John Paul Jones, president, American Transit Association (organization last registered as lobbyist Dec. 14, 1965; 1965 *Almanac* p. 1465), supported the bills:

Three changes should be made in S 3499:

- The authorization should be quadrupled, to \$1 billion.
- The funds should be made available to private as well as public systems.
- The conditions under which funds would be available should be broadened.

April 9

Alan S. Boyd, president, Illinois Central Railroad, and Secretary of Transportation 1967-69, supported the bills:

A comprehensive urban transportation system cannot break even, much less make a profit. Cities "have no future without mass transit facilities." Federal aid should go to private, as well as public systems.

INFLATION POLICY

Senate Banking and Currency Committee held hearings March 18 on the state of the economy.

Testimony March 18

Arthur F. Burns, chairman of the Federal Reserve Board, hinted that the board is in the process of easing its tight money policy:

"The questions the Federal Reserve has had to face—and is facing now, relate to the timing and the degree of relaxation of its control over the growth of bank reserves, bank credits and the money supply.... Unfortunately, a central banker cannot discuss such issues freely without running the risk of rocking financial markets."

Downward adjustments in interest rates on Government and private securities reflect market recognition of an economic slowdown. "Some easing in monetary policy might soon take place."

The money supply and bank deposits grew moderately in recent weeks. Statistics showed an increase in total bank credit—investments and loans. These monetary aggregates were still contracting during the first weeks of 1970. The change of direction is more important than the magnitude of the changes.

The Board sees the economic adjustment as lacking the "pervasive and cumulative characteristics" of a recession.